

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHARIF ABUL MUHAMMED	:	
CURETON,	:	CIVIL ACTION
Petitioner	:	
	:	
v.	:	NO. 08-2337
	:	
SUPERINTENDENT ROZUM, et al.,	:	
Respondents	:	

**ORDER**

STENGEL, J.

AND NOW, this 29th day of January, 2009, upon consideration of the pleadings and the record herein, and after review of the unopposed Report and Recommendation of M. Faith Angell, United States Magistrate Judge, it is hereby ORDERED that:

- 1) The Report and Recommendation is **APPROVED** and **ADOPTED**;<sup>1</sup>

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<sup>1</sup> Mr. Cureton is not entitled to relief under Federal Rule of Civil Procedure 60(b). First, his contention that I “mistakenly” or “inadvertently” adopted and approved the prior Report and Recommendation is baseless. An evidentiary hearing is not required for a petition for *habeas corpus*. I agreed with the Report’s conclusion that Mr. Cureton was not entitled to *habeas* relief based on the pleadings and the record. Cureton v. Rozum, 2007 WL 1650678, at \*1 n.1 (E.D. Pa. June 5, 2007) (order adopting Report and Recommendation). Mr. Cureton has presented no new evidence for me to conclude otherwise.

Second, the prior Report and Recommendation carefully discussed why three of Mr. Cureton’s claims were dismissed for failure to exhaust. See Cureton v. Rozum, No. 06-3030, at 6-9 (E.D. Pa. Mar. 29, 2007) (Report and Recommendation). Mr. Cureton has not argued why these prior conclusions were incorrect. He merely asserts that they were incorrect. After consideration of the motion and the prior record, I will dismiss this argument.

Third, to the extent Mr. Cureton argues that his claim of insufficiency of the evidence as to the presence of gunpowder residue was improperly dismissed, I perceive no reason to grant relief. The prior Report and Recommendation directly noted the fact that the PCRA court did not address this particular aspect of Mr. Cureton’s insufficiency claim. See id. at 11-12. The Report proceeded to analyze the merits of the claim. It concluded that the “Superior Court’s decision was not based on an unreasonable determination of the facts in light of the evidence” and that the decision was “neither contrary to nor an unreasonable application of clearly established federal

- 2) The petitioner's Motion for Relief from Judgement under Fed.R.Civ.P. Rule 60(b) (Document #1) is hereby **DISMISSED**;
- 3) The Clerk of the Court shall mark this case **CLOSED** for all purposes.

BY THE COURT:

/s/ Lawrence F. Stengel  
LAWRENCE F. STENGEL, J.

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law.” See Cureton, 2007 WL 1650678, at \*1 n.1 (E.D. Pa. June 5, 2007) (noting agreement with the Report and Recommendation's conclusion as to the sufficiency of the evidence). Mr. Cureton has presented no reason to alter that conclusion.